

DETAILED ACTION

Status of Claims

This action is responsive to application filed on December 31, 2003. Claims 1-27 are pending examination.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I.*** Claims 1-8, drawn to protocol implementing, classified in class 709, subclass 230.
 - II.*** Claims 9-15, drawn to computer network monitoring, classified in class 709, subclass 224.
 - III.*** Claims 16-27, drawn to computer network initialization, classified in class 709, subclass 222.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions ***I***, ***II*** and ***III*** are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)).
3. In the instant case, the combination ***I*** as claimed does not require the particulars of the subcombinations ***II*** and ***III*** as claimed because the steps involved in ***I*** relate to controlling sending and receiving from a kernel-mode WWAN device driver and is not dependent upon the steps involved ***II*** and ***III***. The subcombinations have separate utility since ***II*** relates to

monitoring and managing signal strength and since **III** relates to initializing devices via interfaces.

Also, the combination **II** as claimed does not require the particulars of the subcombinations **I** and **III** as claimed because the steps involved in **II** relate to monitoring and managing signal strength and is not dependent upon the steps involved **I** and **III**. The subcombinations have separate utility since **I** relates to controlling sending and receiving from a kernel-mode WWAN device driver and since **III** relates to initializing devices via interfaces.

Furthermore, the combination **III** as claimed does not require the particulars of the subcombinations **I** and **II** as claimed because the steps involved in **III** relate to initializing devices via interfaces and is not dependent upon the steps involved **I** and **II**. The subcombinations have separate utility since **I** relates to controlling sending and receiving from a kernel-mode WWAN device driver and since **II** relates to monitoring and managing signal strength.

4. Because these inventions are distinct for the reasons given above and have attained recognition in the art as a separate subject of inventive effort as demonstrated by their different classifications and thus requiring a separate field of search (see MPEP § 808.02) for each distinct invention, restriction for examination purposes as indicated is proper.

5. The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104.

See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THIRTY DAYS FROM THE MAILING OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 USC § 133). EXTENSION OF TIME MAY BE OBTAINED UNDER PROVISION OF 37 CFR 1.136(A).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO
February 18, 2008